

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Technology Transitions Policy Task Force Seeks
Comment on Potential Trials

GN Docket No. 13-5

DA 13-1016

**COMMENTS OF
THE MASSACHUSETTS DEPARTMENT OF
TELECOMMUNICATIONS AND CABLE**

Commonwealth of Massachusetts
Department of Telecommunications and Cable

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The Massachusetts Department of Telecommunications and Cable (MDTC)¹ respectfully submits these comments in response to the Public Notice released by the Federal Communications Commission (FCC) on May 10, 2013.² The FCC's Technology Transitions Policy Task Force (Task Force) seeks comment on "potential trials relating to the ongoing transitions from copper to fiber, from wireline to wireless, and from time-division multiplexing (TDM) to Internet Protocol (IP).³ The Task Force seeks to use these trials to produce data for its factual record and to support FCC policies promoting investment, innovation, and competition, while protecting consumers and network resiliency.⁴

The MDTC concurs with the FCC that the trials should be designed to produce data measuring the trials' effects on consumers, competitors, and other stakeholders. The FCC should collect data on the new networks and services, as well as, the effect of discontinued services and networks during the trial. As the Task Force recognizes, some incumbent local exchange carriers (LECs) intend to replace the existing legacy circuit switched wireline networks with similar but

¹ The MDTC regulates telecommunications and cable services within the Commonwealth of Massachusetts and represents the Commonwealth before the FCC. MASS. GEN. LAWS ch. 25C, § 1; MASS. GEN. LAWS ch. 166A, § 16. Silence on any matter not addressed in these comments does not connote agreement or opposition by the MDTC.

² See *Technology Transitions Policy Task Force Seeks Comment on Potential Trials*, GN Docket No. 13-5, FCC Public Notice, DA 13-1016 (rel. May 10, 2013) (Public Notice).

³ *Id.* at 1.

⁴ *Id.*

not identical product offerings over a wireless network.⁵ Replacing and subsequently discontinuing the existing circuit switched wireline networks as part of a trial could have profound effects on consumers, competitors, and other stakeholders.

Furthermore, as the discontinuance of wireline services and IP interconnection trials, however temporary, may implicate federal and state rules and proceedings, the FCC should ensure that the MDTC and other relevant state commissions are informed of and involved with any proposed trial conducted within their jurisdictions. The FCC should also ensure that, at a minimum, data collected during the trials are shared with the state commissions throughout the trials so that states can develop appropriate policies to encourage the IP transition while maintaining their obligations, such as consumer protection and public safety. Consequently, the Task Force should view the state commissions as partners in the proposed trials. Lastly, the FCC should be mindful that service providers are already transitioning wireline networks to wireless networks and entering into IP agreements from which the FCC could be collecting data independent of the proposed trials.

I. THE FCC AND THE STATES SHOULD WORK AS PARTNERS TO ENSURE SUCCESSFUL TRIALS AND USEFUL OUTCOME DATA.

In the Public Notice, the Task Force seeks comment on the role of states in the trials.⁶ The FCC should not act alone in selecting the site and evaluating the outcome of the proposed trials. State commissions can be and should be important partners in analyzing and evaluating the data collected during the trials. As NARUC states in its June 2013 draft Federalism Task Force report, “the FCC and the States should work together to collect the data necessary to make

⁵ *Id.* at 8 (citing examples of Verizon replacing copper based service on Fire Island, New York with wireless only voice and data products and AT&T’s stated intent to service millions of current wireline customers with a wireless-only product).

⁶ *Id.* at 12.

informed decision” to ensure open and transparent evidence-based decision making.⁷ To fulfill such a role, the state commissions should be closely involved with the trials from the start. Conducting the trials in cooperation will ensure the FCC receives valuable feedback on the locations proposed by services providers and give states an opportunity to evaluate whether their rules and regulations will be met or should be voluntarily set aside during the trials. The FCC should also share the data collected with the state where the trial occurs. Giving states access to the data collected will help them determine how best to change existing state rules and regulations or adopt new ones in order to facilitate the technology transitions while continue to perform their necessary functions.

II. THE TASK FORCE SHOULD PROPOSE METRICS AND COLLECT DATA CONCERNING THE EFFECTS OF DISCONTINUED WIRELINE NETWORKS AND SERVICES TRIALS.

The Task Force seeks comment on the impact of trials where residential and business customers are transitioned from wireline to wireless voice services.⁸ The ongoing technology transitions are often discussed in terms of the improvements the new networks will make in the provision of services and the new services that will be available to consumers once the new technologies are operational.⁹ When discussing the technology changes from this perspective, some commenters have argued that many of the existing rules and regulations are inapplicable

⁷ Draft NARUC Federalism Task Force Report: Cooperative Federalism and Telecom In the 21st Century at 12 (June 2013) *available at* <http://www.naruc.org/Publications/Draft%20Federalism%20Task%20Force%20Report.pdf>. (NARUC June 2013 Report).

⁸ Public Notice at 8.

⁹ *See e.g.* AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition, GN Docket No. 12-353 at 3-4 (filed Nov. 7, 2012) (AT&T Wire Center Trials Petition) (Discussing the investment service providers particular AT&T are making in next generation wireline and wireless networks).

and are hindering incumbent providers from offering similar competitive services because of the cost associated with the obligation to maintain existing services.¹⁰

But, the FCC should be mindful that the transition only requires trials because of the request to discontinue existing incumbent services. If service providers were merely introducing new infrastructure and services while maintaining existing networks and services, there would be no need for trials. Providers could introduce services over the new networks and consumers could choose to adopt such technologies over time and decide how best to use those services, whether as replacements or complements to their incumbent services. Providers themselves could determine how best to interconnect and provide services over the new networks, and once those concerns were addressed the regulatory process could be followed to discontinue legacy wireline services.

However, this gradual, market-based transition is not what is occurring at present. One service provider has received permission to shutdown existing networks and retire incumbent wireline services in a defined area, rather than repair storm-damaged infrastructure.¹¹ It is essential to ensure that consumers continue to be able to obtain services with equivalent functionality and quality.¹² Therefore, the FCC, in conducting its trials, should include the discontinuance of services that are unique to the legacy network. In taking such actions, the FCC should also identify the services provided over the legacy networks that consumers are using and develop a list of essential services that must be provided over the alternative wireless or IP-based

¹⁰ See AT&T Wire Center Trials Petition at 4-5; Verizon Ex Parte, AT&T and NTCA Petitions on Transition from Legacy Transmission Platforms to Services Based on Internet Protocol, GN Docket No. 12-353; Technology Transitions Policy Task Force, GN Docket No. 13-5 at 3-5 (Jan. 15, 2013).

¹¹ See New York Public Service Commission Public Notice *PSC Allows Use of Alternative Verizon Service*, 13030/13-C-0197, available at <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={10203F20-06DC-41A4-956F-F6B70F906F3E}> (May 16, 2013).

¹² NARUC June 2013 Report at 3.

networks. The FCC should then develop metrics for comparing the services over the new networks to those services previously provided over the legacy network.

The FCC should compare the level of equivalency between the services on issues such as availability, quality, price, regulatory oversight, and available consumer protections to understand how the services differ and understand the tradeoffs that consumers will be experiencing. For example, in transitioning to a voice service over a wireless network from a wireline network, consumers may gain mobility, but lose some consistency and service quality in the exchange. These are measurable and comparable differences on which consumers can make service choices and regulators can make policy choices. However, consumers may not know the tradeoffs involved in replacing a legacy wireline service with a fixed wireless service. The service providers and the FCC need to take steps to ensure consumers are aware of and understand the differences in services.

The MDTC does not claim one service or technology is better or preferable to the other. But, it does believe that consumers should understand the measureable, comparable, differences between the services, particularly when the intent of the service provider is to discontinue the existing services provided over the legacy wireline network.

III. WIRELINE TO WIRELESS TRIALS.

Wireless services have coexisted with wireline services for many years. Consumers have had the ability to use one or both types of services. Now, two providers that currently provide both wireline services and wireless services request to discontinue the legacy wireline services and in some instances replace those services with wireless services, including a fixed wireless

service that emulates the existing legacy wireline service offering.¹³ In allowing for trials, the FCC should acknowledge that there are significant data available for comparing legacy wireline and wireless service options and understanding consumer preferences and concerns. If the trials allow service providers to discontinue services, the FCC should ensure consumers are fully informed willing participants and require service providers to comply with existing federal and state requirements concerning the discontinuance of services. Informing consumers will help ensure that they will be prepared for the service quality differences between the wireline and wireless networks, particularly during an emergency. During an emergency, wireless networks often are overloaded¹⁴ and during power outages, wireless devices only last as long as the battery in the devices.¹⁵

A. The FCC Should Collect Data from Ongoing Attempts to Replace Legacy Wireline Service with Wireless Services.

The FCC recognizes that data may already be available concerning the replacement of legacy wireline services with wireless service. Verizon has begun replacing legacy wireline services with a wireless only option in areas where Superstorm Sandy damaged its existing wireline networks and Verizon has opted not to replace or repair those networks.¹⁶ The New York Public Service Commission has tentatively approved Verizon going forward with such a

¹³ See AT&T Wire Center Trials Petition at 4-5; Section 63.71 Application of Verizon New York Inc. and Verizon New Jersey Inc. For Authority Pursuant to Section 214 of the Communications Act of 1934, as amended to Discontinue the Provision of Service, WC Docket No. 13-150 (filed June 7, 2013).

¹⁴ See Genachowski, Julius and Zittrain, Jonathan, *Former FCC Chairman: Let's Test an Emergency Ad Hoc Network in Boston*, available at <http://www.technologyreview.com/view/515781/former-fcc-chairman-lets-test-an-emergency-ad-hoc-network-in-boston/> (June 6, 2013) (Explaining how wireless networks are not all geared to scale up during emergencies and may become overloaded or overwhelmed, such as during the Boston Marathon Bombing).

¹⁵ See Maguire, Tom, *The Fire Island Voice Link Solution*, Verizon Policy Blog, available at <http://publicpolicy.verizon.com/blog/entry/the-fire-island-voice-link-solution> (June 3, 2013) (Explaining Voice Link operates on commercial power, but will work on rechargeable batteries for 36 hours and working on a version that will run on standard AA batteries).

¹⁶ Public Notice at 8.

plan.¹⁷ And Verizon has recently submitted its request to the FCC to discontinue wireline services in certain parts of New York and New Jersey where it is replacing legacy wireline services with wireless services.¹⁸ Unless the FCC or the New York Public Service Commission otherwise require Verizon to repair or replace the wireline infrastructure to these storm hit areas, the transition to wireless only should yield some useful data for understanding some of the effects of the loss of the wireline network.¹⁹

B. The FCC Should Ensure that Consumers are Willing Participants in the Trials.

Verizon's request to replace wireline services with wireless services in certain areas of New York and New Jersey notwithstanding, the FCC should attempt to ensure that consumers are participating voluntarily in the trials and are not merely being informed that legacy wireline services are no longer available in their area. If consumer participation is voluntary, trial participants could be selected based on their willingness to provide feedback on the trials, a valuable data source. To the extent the trials cannot rely on voluntary consumer participation, the trials should be conducted with significant outreach to consumers so that they are fully informed of the changes occurring and the difference between the services provided. Such consumer outreach is not unprecedented, as the FCC organized a significant information campaign to inform consumers of the DTV Transition.²⁰

¹⁷ See New York Public Service Commission Public Notice *PSC Allows Use of Alternative Verizon Service*, 13030/13-C-0197, available at <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={10203F20-06DC-41A4-956F-F6B70F906F3E}> (May 16, 2013).

¹⁸ Section 63.71 Application of Verizon New York Inc. and Verizon New Jersey Inc. For Authority Pursuant to Section 214 of the Communications Act of 1934, as amended to Discontinue the Provision of Service, WC 13-150, (filed June 7, 2013).

¹⁹ The Superstorm Sandy related transition, however, should not be considered a trial such as those proposed by the Task Force because it is not a temporary experiment and will not allow consumers to move back to a wireline product during the trial. Public Notice at 2. Furthermore, the Superstorm-damaged areas may reflect significant parameters that are not comparable to other situations.

²⁰ See e.g., *1 Day Until DTV Transition Focus at End of Technological Transition is on People*, News Release, available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-291357A1.pdf (June 11, 2009) (detailing

The information provided to consumers should include contact information for the service providers, the FCC, and relevant state agencies so that consumers have multiple sources for providing feedback or complaints during the trials.²¹ A list of the service offerings, associated costs, and comparisons to their current wireline services for their new wireless services should also be provided to consumers in clear language. Such information would inform consumers of the differences between the service offering allowing them as trial participants to make informed choices and provide better feedback. Informing consumers and, when available, obtaining their voluntary participation are useful steps towards ensuring the goal of protecting consumers during and after the trials is met.²²

C. The FCC Should Require Service Providers to Comply with all Federal and State Requirements Concerning the Discontinuance of Services.

Another method for protecting consumers and ensuring the trials provide valuable feedback is for the FCC to require the service providers to comply with all state and federal requirements concerning the discontinuance of services.²³ Exempting service providers from the requirements or otherwise modifying the requirements would not inform the FCC or state commissions of the effect such rules have on the service transition process. Without such data, regulators would not have sufficient information to make meaningful adjustments to the rules if necessary. Further, the transition experience during the trial would be incomplete without requiring the wireline service providers requesting to discontinue legacy services to comply with notice and other discontinuances requirements.

outreach offered by FCC and the Commerce Department's National Telecommunications and Information Administration).

²¹ As NARUC recognizes in its June 2013 Report, the States are well positioned to understand the availability of communications services, have the expertise and experience to respond quickly to and resolve consumer concerns. NARUC June 2013 Report at 13.

²² Public Notice at 1.

²³ See 47 U.S.C. Sec. 214; *see also e.g.*, Massachusetts Migration Guidelines, DTC 02-28, *available at* <http://www.mass.gov/ocabr/government/oca-agencies/dtc-lp/competition-division/telecommunications-division/doing-business/market-exit/>.

IV. THE FCC SHOULD COLLECT DATA ON IP INTERCONNECTION FROM OTHER TRIALS BEING CONDUCTED AND SERVICE PROVIDERS' ONGOING ATTEMPTS TO ENTER INTO IP AGREEMENTS.

The Task Force noted the FCC's Technological Advisory Council conclusion from its recent memo that IP Interconnection is being delayed in the United States, aside from the efforts of some cable companies and competitive LECs.²⁴ The Task Force acknowledges there are efforts by some service providers to enter into VoIP interconnection agreements. Further, service providers recently approved²⁵ to participate in the IP Numbering trials had indicated they intend to enter into IP interconnection agreement for wholesale, enterprise, and retail services.²⁶ As such, the FCC should start collecting data from service providers that are attempting to enter into IP interconnect agreements as a part of the IP Numbering trials. Starting to collect this data, at a minimum, would provide the FCC and states with information to understand the source of the delay of widespread adoption of IP interconnection agreements and actions the FCC could take to encourage adoption of IP interconnection agreement. Furthermore, the MDTC has an open proceeding reviewing an IP agreement to determine whether the agreement constitutes a "section 251 interconnection agreement" subject to the requirements of 47 U.S.C. § 252.²⁷ The

²⁴ Public Notice at 4 *citing* Federal Communications Commission Technological Advisory Council, TAC Memo – VoIP Interconnection (2012) *available at* <http://transition.fcc.gov/bureaus/oet/tac/tacdocs/meeting92412/VoIP-Interconnection-TAC-Memo-9-24-12.pdf>. (TAC VoIP Interconnection White Paper).

²⁵ *Numbering Policies for Modern Communications*, WC Docket No. 13-97, *IP Enabled Services*, WC Docket No. 04-36, *Telephone Number Requirements for IP-Enabled Services Providers*, WC Docket No. 07-243, *Telephone Number Portability*, CC Docket No. 95-116, *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Connect America Fund*, WC Docket No. 10-90, *Numbering Resource Optimization*, CC Docket No. 99-200, *Petition of Vonage Holdings Corp. for Limited Waiver of Section 52.15(g)(2)(i) of the Commission's Rules Regarding Access to Numbering Resources*, *Petition of TeleCommunication Systems, Inc. and HBF Group, Inc. for Waiver of Part 52 of the Commission's Rules, (VoIP Direct Access) Order*, DA 13-1397 (rel. June 17, 2013).

²⁶ See e.g. *Petition of Vonage Holdings Corp. for VoIP Direct Access* (filed May 17, 2013) (Vonage Petition); *Petition of WilTel Communications, LLC for VoIP Direct Access* (filed May 20, 2013) (WilTel Petition). Both of these providers will conduct these trials in Massachusetts, among other places.

²⁷ See *Investigation by the Dep't of Telecomms. & Cable on its Own Motion to Determine whether an Agreement entered into by Verizon New England Inc., d/b/a Verizon Mass. is an Interconnection Agreement under 47 U.S.C. § 251 Requiring the Agreement to be filed with the Dep't for Approval in Accordance with 47 U.S.C. § 252*, D.T.C. 13-6.

FCC should ensure the IP Interconnection trials do not interfere with MDTC or any other state commission's ability to conduct such a proceeding, but rather should collect data and other information from such proceedings.

V. CONCLUSION.

In conducting trials concerning transitioning legacy networks or all-IP or wireless networks, the FCC should ensure that data collected for such trials are shared with the state commissions, so that all regulators may encourage the transition while fulfilling their traditional obligations, such as consumer protection. Before conducting trials, the FCC should collect data from ongoing attempts to transition legacy wireline networks and services to wireless network and services and from service providers attempting to enter into IP interconnection agreement. The FCC should also conduct the trials with a focus on the discontinuing services and the comparability of the discontinued services to the wireless and IP-based services offered as replacements. Lastly, consumers must, at least, be fully informed of the trials if not willing participants in order to ensure consumers are protected and to receive valuable, informed feedback from consumers participating in the trials.

Respectfully submitted,

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